

Introduced by Senator Ducheny

February 20, 2003

An act to amend Sections 65008, 65400, 65589.5, and 65914 of, and to add Section 65589.4 to, the Government Code, to amend Sections 50650.3, 50650.4, and 50650.5 of the Health and Safety Code, and to amend Section 30500.1 of the Public Resources Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 619, as introduced, Ducheny. Housing.

(1) The Planning and Zoning Law prohibits a local agency from prohibiting or discriminating against a residential development or emergency shelter because of specified reasons.

This bill would additionally prohibit those actions from being taken because the development consists of a multifamily residential project or because of the method of financing or other specified assistance, and would include actions taken based in whole or in part on the specified reasons, as modified by the bill.

(2) Existing law requires a local planning agency upon adoption of a general plan by the legislative body, to provide an annual report on the status of the plan and progress toward its implementation to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development.

This bill would authorize prescribed judicial enforcement action upon the failure to make that report, as specified.

(3) Existing law restricts a local agency from disapproving an affordable housing development project, as prescribed.

This bill would define "housing development project" for the purposes of that requirement.

The bill would additionally require the administrator designated by the planning agency for the granting of permits to approve or disapprove applications for low- and moderate-income residential development projects that are consistent with the applicable general plan land use designation without a hearing.

(4) Existing law prescribes criteria for the awarding of costs of suit and attorney's fees to a plaintiff, including a public entity, in an action against a public entity to enjoin or obtain a writ of mandate relative to the carrying out or approval of a housing development, if the court makes certain findings.

This bill would additionally authorize the awarding of damages and would specify that those awards may be given to a prevailing party other than a public entity.

(5) The existing CalHome Program authorizes loans and grants to be provided to assist homeownership, as prescribed, including mutual housing developments.

This bill would authorize CalHome funds to be used for construction training and would prescribe other criteria for awarding and administering those funds, including assistance for mutual housing development and limited equity cooperative housing developments.

(6) The existing California Coastal Act provides that no local coastal program is required to include housing policies and programs.

This bill would authorize the California Coastal Commission to take prescribed actions to encourage affordable housing and would prohibit the commission from proposing and applying measures that preclude affordable housing.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65008 of the Government Code is
2 amended to read:
3 65008. (a) Any action pursuant to this title by any city,
4 county, city and county, or other local governmental agency in this
5 state is null and void if it denies to any individual or group of
6 individuals the enjoyment of residence, landownership, tenancy,
7 or any other land use in this state because of any of the following
8 reasons:



(1) The race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, familial status, disability, or age of the individual or group of individuals. For purposes of this section, both of the following definitions apply:

(A) “Familial status” as defined in Section 12955.2.

(B) “Disability” as defined in Section 12955.3.

(2) The method of financing of any residential development of the individual or group of individuals.

(3) The intended occupancy of any residential development by persons or families of low, moderate, or middle income.

(b) *(1) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to this title, prohibit or discriminate against any residential development or emergency shelter because for any of the following reasons:*

(A) Because of the method of financing or.

(B) Because of the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, familial status, disability, or age of the owners or intended occupants of the residential development or emergency shelter.

~~*(c) (1) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to this title, prohibit or discriminate against a residential development or emergency shelter because*~~

(C) Because the development or shelter is intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income.

~~*(2)*~~

(D) Because the development consists of a multifamily residential project.

(2) The discrimination prohibited by this subdivision includes the denial or conditioning of a residential development or shelter based in whole or in part on the method of financing or the development or the occupancy of the development by persons protected by this subdivision, including, but not limited to, persons and families of low and moderate income.

(c) For the purposes of this section, “persons and families of middle income” means persons and families whose income does

1 not exceed 150 percent of the median income for the county in
2 which the persons or families reside.

3 (d) (1) No city, county, city and county, or other local
4 governmental agency may impose different requirements on a
5 residential development or emergency shelter that is subsidized,
6 financed, insured, or otherwise assisted by the federal or state
7 government or by a local public entity, as defined in Section 50079
8 of the Health and Safety Code, than those imposed on nonassisted
9 developments, except as provided in subdivision (e). *The*
10 *discrimination prohibited by this subdivision includes the denial*
11 *or conditioning of a residential development or shelter based in*
12 *whole or in part on the fact that the development is subsidized,*
13 *financed, insured, or otherwise assisted as described in this*
14 *paragraph.*

15 (2) No city, county, city and county, or other local
16 governmental agency may, because of the race, sex, color,
17 religion, ethnicity, national origin, ancestry, lawful occupation,
18 familial status, disability, or age of the intended occupants, or
19 because the development is intended for occupancy by persons and
20 families of low, moderate, or middle income, impose different
21 requirements on these residential developments than those
22 imposed on developments generally, except as provided in
23 subdivision (e).

24 (e) Notwithstanding subdivisions (a) to (d), inclusive, nothing
25 in this section or this title shall be construed to prohibit either of
26 the following:

27 (1) The County of Riverside from enacting and enforcing
28 zoning to provide housing for older persons, in accordance with
29 state or federal law, if that zoning was enacted prior to January 1,
30 1995.

31 (2) Any city, county, or city and county from extending
32 preferential treatment to residential developments or emergency
33 shelters assisted by the federal or state government or by a local
34 public entity, as defined in Section 50079 of the Health and Safety
35 Code, or other residential developments or emergency shelters
36 intended for occupancy by persons and families of low and
37 moderate income, as defined in Section 50093 of the Health and
38 Safety Code, or persons and families of middle income, or
39 agricultural employees, as defined in subdivision (b) of Section
40 1140.4 of the Labor Code, and their families. This preferential



1 treatment may include, but need not be limited to, reduction or
2 waiver of fees or changes in architectural requirements, site
3 development and property line requirements, building setback
4 requirements, or vehicle parking requirements that reduce
5 development costs of these developments.

6 (f) “Residential development,” as used in this section, means
7 a single-family residence or a multifamily residence, including
8 manufactured homes, as defined in Section 18007 of the Health
9 and Safety Code.

10 (g) This section shall apply to chartered cities.

11 (h) The Legislature finds and declares that discriminatory
12 practices that inhibit the development of housing for persons and
13 families of low, moderate, and middle income, or emergency
14 shelters for the homeless, are a matter of statewide concern.

15 SEC. 2. Section 65400 of the Government Code is amended
16 to read:

17 65400. After the legislative body has adopted all or part of a
18 general plan, the planning agency shall do both of the following:

19 (a) Investigate and make recommendations to the legislative
20 body regarding reasonable and practical means for implementing
21 the general plan or element of the general plan, so that it will serve
22 as an effective guide for orderly growth and development,
23 preservation and conservation of open-space land and natural
24 resources, and the efficient expenditure of public funds relating to
25 the subjects addressed in the general plan.

26 (b) (1) Provide an annual report to the legislative body, the
27 Office of Planning and Research, and the Department of Housing
28 and Community Development on the status of the plan and
29 progress in its implementation, including the progress in meeting
30 its share of regional housing needs determined pursuant to Section
31 65584 and local efforts to remove governmental constraints to the
32 maintenance, improvement, and development of housing pursuant
33 to paragraph (3) of subdivision (c) of Section 65583.

34 (2) The housing portion of the annual report required to be
35 provided to the Office of Planning and Research and the
36 Department of Housing and Community Development pursuant to
37 this subdivision shall be prepared through the use of forms and
38 definitions adopted by the ~~Department of Housing and~~
39 ~~Community Development~~ *department* pursuant to the
40 Administrative Procedure Act (Chapter 3.5 (commencing with

1 Section 11340) of, Chapter 4 (commencing with Section 11370)
2 of, and Chapter 5 (commencing with Section 11500) of, Part 1 of
3 Division 3 of Title 2). This report shall be provided to the
4 legislative body, the Office of Planning and Research, and the
5 ~~Department of Housing and Community Development~~
6 department on or before October 1 of each year.

7 (3) *If the planning agency fails to provide the annual report*
8 *required by this subdivision to the Office of Planning and Research*
9 *and the Department of Housing and Community Development by*
10 *October 1 in any year, the office, the department, or any person,*
11 *or their representative, may make a written demand to the planning*
12 *agency asking that the report be submitted to the office and the*
13 *department within 30 days. If the agency fails to submit an annual*
14 *report that fully complies with the requirements of this subdivision*
15 *within the 30-day period, the office, department, or any interested*
16 *person may institute proceedings for a writ of mandate or*
17 *injunctive or declarative relief in any court of competent*
18 *jurisdiction to enforce the duty to provide the report. The court*
19 *shall award court costs and reasonable attorney fees to the plaintiff*
20 *should the plaintiff prevail in litigation filed pursuant to this*
21 *section.*

22 SEC. 3. Section 65589.4 is added to the Government Code, to
23 read:

24 65589.4. (a) Applications for low- and moderate-income
25 residential development projects that are consistent with the
26 applicable general plan land use designation, zoning ordinance,
27 and development standards, shall be accepted and approved or
28 disapproved by the administrator designated by the planning
29 agency to grant those permits, without a hearing.

30 (b) For the purposes of this section, “residential” means a use
31 consisting of either of the following:

32 (1) Residential units only.

33 (2) Mixed-use developments in which nonresidential uses are
34 limited to commercial uses serving the neighborhood and to the
35 first floor of buildings that are at least two stories.

36 (c) For the purposes of this section, “development project”
37 means any of the following:

38 (1) A project of 100 units or less.

39 (2) A project of 150 units or less if the project is located within
40 one-half mile of an existing rail transit station, a ferry terminal

1 served by either a bus or rail transit service, or the intersection of
2 two or more major bus routes with a frequency of service interval
3 of 15 minutes or less during the morning and afternoon peak
4 commute periods.

5 (d) A project may not be divided into smaller projects to qualify
6 as a ‘development project’ pursuant to this section.

7 (e) For purposes of this section, a residential development
8 project that is “consistent with the applicable general plan land use
9 designation, zoning ordinance, and development standards”
10 means the development project is consistent with both of the
11 following:

12 (1) Applicable development standards, including site,
13 construction, design, and use standards, provided those standards
14 are applied in a manner consistent with subdivision (e) of Section
15 65915.

16 (2) Any applicable general plan, specific plan, and local coastal
17 program, including any mitigation measures required by a plan or
18 program pursuant to the California Environmental Quality Act,
19 Division 13 (commencing with Section 21000) of the Public
20 Resources Code, as they existed on the date that the application
21 was deemed complete and with any applicable zoning ordinance,
22 as that zoning ordinance existed on the date that the application
23 was deemed complete, except that consistency with the zoning of
24 the project property shall not be required if the project property has
25 not been rezoned to conform with the general plan.

26 (f) For purposes of this section “low- and moderate-income
27 residential development projects” means housing affordable to
28 very low, low- and moderate-income households as defined in
29 paragraph (2) of subdivision (h) of Section 65589.5.

30 SEC. 4. Section 65589.5 of the Government Code is amended
31 to read:

32 65589.5. (a) The Legislature finds and declares all of the
33 following:

34 (1) The lack of housing is a critical problem that threatens the
35 economic, environmental, and social quality of life in California.

36 (2) California housing has become the most expensive in the
37 nation. The excessive cost of the state’s housing supply is partially
38 caused by activities and policies of many local governments that
39 limit the approval of housing, increase the cost of land for housing,

1 and require that high fees and exactions be paid by producers of
2 housing.

3 (3) Among the consequences of those actions are
4 discrimination against low-income and minority households, lack
5 of housing to support employment growth, imbalance in jobs and
6 housing, reduced mobility, urban sprawl, excessive commuting,
7 and air quality deterioration.

8 (4) Many local governments do not give adequate attention to
9 the economic, environmental, and social costs of decisions that
10 result in disapproval of housing projects, reduction in density of
11 housing projects, and excessive standards for housing projects.

12 (b) It is the policy of the state that a local government not reject
13 or make infeasible housing developments that contribute to
14 meeting the housing need determined pursuant to this article
15 without a thorough analysis of the economic, social, and
16 environmental effects of the action and without complying with
17 subdivision (d).

18 (c) The Legislature also recognizes that premature and
19 unnecessary development of agricultural lands for urban uses
20 continues to have adverse effects on the availability of those lands
21 for food and fiber production and on the economy of the state.
22 Furthermore, it is the policy of the state that development should
23 be guided away from prime agricultural lands; therefore, in
24 implementing this section, local jurisdictions should encourage, to
25 the maximum extent practicable, in filling existing urban areas.

26 (d) A local agency shall not disapprove a housing development
27 project, including farmworker housing as defined in subdivision
28 (d) of Section 50199.50 of the Health and Safety Code, for very
29 low, low- or moderate-income households or condition approval,
30 including through the use of design review standards, in a manner
31 that renders the project infeasible for development for the use of
32 very low, low- or moderate-income households unless it makes
33 written findings, based upon substantial evidence in the record, as
34 to one of the following:

35 (1) The jurisdiction has adopted a housing element pursuant to
36 this article that has been revised in accordance with Section 65588
37 and that is in substantial compliance with this article, and the
38 development project is not needed for the jurisdiction to meet its
39 share of the regional housing need for very low, low-, or
40 moderate-income housing.



(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.

(4) Approval of the development project would increase the concentration of lower income households in a neighborhood that already has a disproportionately high number of lower income households and there is no feasible method of approving the development at a different site, including those sites identified pursuant to paragraph (1) of subdivision (c) of Section 65583, without rendering the development unaffordable to low- and moderate-income households.

(5) The development project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(6) The development project is inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a housing element pursuant to this article.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of

1 the findings required pursuant to Section 21081 of the Public
2 Resources Code or otherwise complying with the California
3 Environmental Quality Act (Division 13 (commencing with
4 Section 21000) of the Public Resources Code).

5 (f) Nothing in this section shall be construed to prohibit a local
6 agency from requiring the development project to comply with
7 written development standards, conditions, and policies
8 appropriate to, and consistent with, meeting the quantified
9 objectives relative to the development of housing, as required in
10 the housing element pursuant to subdivision (b) of Section 65583.
11 Nothing in this section shall be construed to prohibit a local agency
12 from imposing fees and other exactions otherwise authorized by
13 law which are essential to provide necessary public services and
14 facilities to the development project.

15 (g) This section shall be applicable to charter cities because the
16 Legislature finds that the lack of housing is a critical statewide
17 problem.

18 (h) The following definitions apply for the purposes of this
19 section:

20 (1) “Feasible” means capable of being accomplished in a
21 successful manner within a reasonable period of time, taking into
22 account economic, environmental, social, and technological
23 factors.

24 (2) “Housing development project” means a use consisting of
25 either of the following:

26 (A) Residential units only.

27 (B) Mixed-use developments in which nonresidential uses are
28 limited to commercial uses serving the neighborhood and to the
29 first floor of buildings that are at least two stories.

30 (3) “Housing for very low, low-, or moderate-income
31 households” means that either (A) at least 20 percent of the total
32 units shall be sold or rented to lower income households, as
33 defined in Section 50079.5 of the Health and Safety Code, or (B)
34 100 percent of the units shall be sold or rented to moderate-income
35 households as defined in Section 50093 of the Health and Safety
36 Code, or middle-income households, as defined in Section 65008
37 of this code. Housing units targeted for lower income households
38 shall be made available at a monthly housing cost that does not
39 exceed 30 percent of 60 percent of area median income with
40 adjustments for household size made in accordance with the



1 adjustment factors on which the lower income eligibility limits are
2 based. Housing units targeted for persons and families of moderate
3 income shall be made available at a monthly housing cost that does
4 not exceed 30 percent of 100 percent of area median income with
5 adjustments for household size made in accordance with the
6 adjustment factors on which the moderate income eligibility limits
7 are based.

8 ~~(3)~~

9 (4) “Area median income” means area median income as
10 periodically established by the Department of Housing and
11 Community Development pursuant to Section 50093 of the Health
12 and Safety Code. The developer shall provide sufficient legal
13 commitments to ensure continued availability of units for very low
14 or low-income households in accordance with the provisions of
15 this subdivision for 30 years.

16 ~~(4)~~

17 (5) “Neighborhood” means a planning area commonly
18 identified as such in a community’s planning documents, and
19 identified as a neighborhood by the individuals residing and
20 working within the neighborhood. Documentation demonstrating
21 that the area meets the definition of neighborhood may include a
22 map prepared for planning purposes which lists the name and
23 boundaries of the neighborhood.

24 ~~(5)~~

25 (6) “Disapprove the development project” includes any
26 instance in which a local agency does either of the following:

27 (A) Votes on a proposed housing development project
28 application and the application is disapproved.

29 (B) Fails to comply with the time periods specified in
30 subparagraph (B) of paragraph (1) of subdivision (a) of Section
31 65950. An extension of time pursuant to Article 5 (commencing
32 with Section 65950) shall be deemed to be an extension of time
33 pursuant to this paragraph.

34 (i) If any city, county, or city and county denies approval or
35 imposes restrictions, including design changes, a reduction of
36 allowable densities or the percentage of a lot that may be occupied
37 by a building or structure under the applicable planning and zoning
38 in force at the time the application is deemed complete pursuant
39 to Section 65943, that have a substantial adverse effect on the
40 viability or affordability of a housing development for very low,

1 low-, or moderate-income households, and the denial of the
2 development or the imposition of restrictions on the development
3 is the subject of a court action which challenges the denial, then the
4 burden of proof shall be on the local legislative body to show that
5 its decision is consistent with the findings as described in
6 subdivision (d) and that the findings are supported by substantial
7 evidence in the record.

8 (j) When a proposed housing development project complies
9 with applicable, objective general plan and zoning standards and
10 criteria, including design review standards, in effect at the time
11 that the housing development project's application is determined
12 to be complete, but the local agency proposes to disapprove the
13 project or to approve it upon the condition that the project be
14 developed at a lower density, the local agency shall base its
15 decision regarding the proposed housing development project
16 upon written findings supported by substantial evidence on the
17 record that both of the following conditions exist:

18 (1) The housing development project would have a specific,
19 adverse impact upon the public health or safety unless the project
20 is disapproved or approved upon the condition that the project be
21 developed at a lower density. As used in this paragraph, a
22 "specific, adverse impact" means a significant, quantifiable,
23 direct, and unavoidable impact, based on objective, identified
24 written public health or safety standards, policies, or conditions as
25 they existed on the date the application was deemed complete.

26 (2) There is no feasible method to satisfactorily mitigate or
27 avoid the adverse impact identified pursuant to paragraph (1),
28 other than the disapproval of the housing development project or
29 the approval of the project upon the condition that it be developed
30 at a lower density.

31 (k) If in any action brought to enforce the provisions of this
32 section, a court finds that the local agency disapproved a project
33 or conditioned its approval in a manner rendering it infeasible for
34 the development of housing for very low, low-, or
35 moderate-income households, including farmworker housing,
36 without making the findings required by this section or without
37 making sufficient findings supported by substantial evidence, the
38 court shall issue an order or judgment compelling compliance with
39 this section within 60 days, including, but not limited to, an order
40 that the local agency take action on the development project. The

1 court shall retain jurisdiction to ensure that its order or judgment
2 is carried out and shall award reasonable attorney fees and costs of
3 suit to the plaintiff or petitioner who proposed the housing
4 development, except under extraordinary circumstances in which
5 the court finds that awarding fees would not further the purposes
6 of this section. If the court determines that its order or judgment
7 has not been carried out within 60 days, the court may issue further
8 orders as provided by law to ensure that the purposes and policies
9 of this section are fulfilled.

10 (I) In any action, the record of the proceedings before the local
11 agency shall be filed as expeditiously as possible and,
12 notwithstanding Section 1094.6 of the Code of Civil Procedure, all
13 or part of the record may be filed (1) by the petitioner with the
14 petition or petitioner's points and authorities, (2) by the respondent
15 with respondent's points and authorities, (3) after payment of costs
16 by the petitioner, or (4) as otherwise directed by the court. If the
17 expense of preparing the record has been borne by the petitioner
18 and the petitioner is the prevailing party, the expense shall be
19 taxable as costs.

20 SEC. 5. Section 65914 of the Government Code is amended
21 to read:

22 65914. (a) In any civil action or proceeding, including, but
23 not limited to, an action brought pursuant to Section 21167 of the
24 Public Resources Code, against a public entity ~~which~~ *that* has
25 issued planning, subdivision, or other approvals for a housing
26 development, to enjoin the carrying out or approval of a housing
27 development or to secure a writ of mandate relative to the approval
28 of, or a decision to carry out the housing development, the court,
29 after entry of final judgment and the time to appeal has elapsed,
30 and after notice to the plaintiff or plaintiffs, may award all
31 reasonably incurred costs of suit, including attorney's fees, *and*
32 *damages that may have been incurred as the result of the action or*
33 *proceeding*, to the prevailing public entity *or other prevailing*
34 *defendant, intervenor, or real party in interest* if it finds all of the
35 following:

36 (1) The housing development meets or exceeds the
37 requirements for low- and moderate-income housing as set forth
38 in Section 65915.

39 (2) The action was frivolous ~~and~~ *or* undertaken with ~~the~~ *a*
40 primary purpose of *significantly* delaying or thwarting the low- or

1 moderate-income nature of the housing development or portions
2 thereof.

3 (3) The public entity *or other prevailing defendant, intervenor,*
4 *or real party in interest* making application for costs under this
5 section has prevailed on all issues presented by the pleadings, and,
6 if an intervenor; *or the public entity or other prevailing defendant*
7 *or real party in interest* actively, through counsel or otherwise,
8 took part on a continuing basis in the defense of the lawsuit.

9 (4) A demand for a preliminary injunction was made by the
10 plaintiff and denied by a court of competent jurisdiction, such
11 denial not having been reversed on appeal, or the action or
12 proceeding was dismissed as a result of a motion for summary
13 judgment by any defendant *or hearing on a writ of mandate*, and
14 not reversed on appeal.

15 (b) In any appeal of any action described in subdivision (a), the
16 reviewing court may award all reasonably incurred costs of suit,
17 including attorney's fees, to the prevailing public entity *or other*
18 *prevailing defendant, intervenor, or real party in interest* if the
19 court reviews and upholds the trial court's findings with respect to
20 paragraphs (1) to (4), inclusive, of subdivision (a).

21 (c) *Nothing in this section shall be construed to limit the*
22 *application of any other remedies or rights provided under law.*

23 SEC. 6. Section 50650.3 of the Health and Safety Code is
24 amended to read:

25 50650.3. (a) Funds appropriated for purposes of this chapter
26 shall be used to enable low- and very low income households to
27 become or remain homeowners. Funds shall be provided by the
28 department to local public agencies or nonprofit corporations as
29 either of the following:

30 (1) Grants for programs that assist individual households.

31 (2) Loans that assist development projects involving multiple
32 homeownership units, including single-family subdivisions.

33 (b) Grant funds may be used for first-time homebuyer
34 downpayment assistance, home rehabilitation, homebuyer
35 counseling, home acquisition and rehabilitation, ~~or~~ self-help
36 mortgage assistance programs, *construction training*, or ~~for~~
37 technical assistance for self-help and shared housing
38 homeownership. Loan funds may be used for *the* purchase of real
39 property, site development, predevelopment, and construction
40 period expenses incurred on homeownership development



1 projects, and permanent financing for mutual housing or
2 cooperative developments. Upon completion of construction, the
3 department may convert project loans into grants for programs of
4 assistance to individual homeowners. Financial assistance
5 provided to individual households shall be in the form of deferred
6 payment loans, repayable upon sale or transfer of the homes, when
7 they cease to be owner-occupied, or upon the loan maturity date.
8 All loan repayments shall be used for activities allowed under this
9 section, and shall be governed by a reuse plan approved by the
10 department. Those reuse plans may provide for loan servicing by
11 the grant recipient or a third-party local government agency or
12 nonprofit corporation.

13 *(c) In administering the CalHome program, the department*
14 *shall do all of the following:*

15 *(1) Allow borrowers to pay off debts or financial obligations*
16 *within 90 days of escrow if CalHome funds are not used for that*
17 *purpose.*

18 *(2) Permit borrowers to retain retirement account savings and*
19 *education account savings and not require liquidation and*
20 *application of those savings towards the home purchase.*

21 *(3) Impose reasonable fees and charges on borrowers in*
22 *accordance with standard Federal Housing Administration*
23 *financing practices.*

24 *(4) Permit mortgage brokers to collect reasonable fees and*
25 *charges in accordance with standard industry financing practices.*

26 *(5) Permit room additions to qualify for rehabilitation*
27 *financing when needed to help relieve overcrowded conditions.*

28 *(6) Permit assistance in purchasing new and existing homes*
29 *with or without rehabilitation.*

30 *(7) Permit higher per home and per project levels of assistance*
31 *in higher cost areas.*

32 *(8) Impose reasonable loan limits in accordance with standard*
33 *Fannie Mae and Freddie Mac financing practices.*

34 SEC. 7. Section 50650.4 of the Health and Safety Code is
35 amended to read:

36 50650.4. To be eligible to receive a grant or loan, local public
37 agencies or nonprofit corporations shall demonstrate sufficient
38 organizational stability and capacity to carry out the activity for
39 which they are requesting funds, including, where applicable, the
40 capacity to manage a portfolio of individual loans over an

1 extended time period. Capacity may be demonstrated by
2 substantial successful experience performing similar activities, or
3 through other means acceptable to the department. *In*
4 *administering the CalHome program, the department shall permit*
5 *local agencies and nonprofit corporations to apply their own*
6 *underwriting guidelines when evaluating CalHome rehabilitation*
7 *loan applications, following prior review and approval of those*
8 *guidelines by the department, and shall permit department*
9 *approval of the organization's program rather than approval of*
10 *individual assistance to each homeowner.* In allocating funds, the
11 department shall utilize a competitive application process, using
12 weighted evaluation criteria, ~~including, but not limited to, and~~
13 ~~award priority on the basis of~~ (a) the extent that the program or
14 project utilizes volunteer or self-help labor, trains youth *and young*
15 *adults* in construction skills, or involves community participation,
16 and (b) whether the program or project contributes toward
17 community revitalization. To the extent feasible, the application
18 process shall ensure a reasonable geographic distribution of funds.

19 SEC. 8. Section 50650.5 of the Health and Safety Code is
20 amended to read:

21 50650.5. For the purposes of this chapter, ~~mutual~~:

22 (a) *Mutual housing and limited equity cooperative housing*
23 *shall be deemed to be forms of homeownership. For these project*
24 ~~types: (a) program and developments of those types of housing, as~~
25 ~~defined in subdivision (b), shall be eligible to receive assistance~~
26 *under the CalHome program. The department may require that*
27 *mutual housing or limited equity cooperative applicants not*
28 *simultaneously apply for and receive funding through the*
29 *department's rental housing programs for the same projects for*
30 *which CalHome assistance is sought. For mutual housing and*
31 *limited equity cooperative projects, all of the following shall*
32 *apply:*

33 (1) *Program funds shall be used for project development costs*
34 ~~only; (b) the only.~~

35 (2) *The department shall enter into a regulatory agreement*
36 *limiting occupant incomes, occupancy charges, and share*
37 *purchase terms for 55 years; and (e) notwithstanding years.*

38 (3) *Notwithstanding Section 50650.3, program assistance shall*
39 *be provided in the form of a deferred payment loan.*

1 ***(b) As used in this section, “mutual housing development”***
2 ***means a housing development owned and sponsored by a nonprofit***
3 ***corporation or a limited partnership in which the nonprofit***
4 ***corporation is the sole general partner, and all of the following***
5 ***requirements are met:***

6 ***(1) The nonprofit corporation is exempt from taxes under***
7 ***Section 501(c)(3) of the Internal Revenue Code or subdivision (d)***
8 ***of Section 23701 of the Revenue and Taxation Code.***

9 ***(2) The nonprofit corporation has as one of its principal***
10 ***purposes the advancement of mutual housing.***

11 ***(3) A majority of the board of directors of the nonprofit***
12 ***corporation sponsor are residents or former residents of***
13 ***developments sponsored by the nonprofit corporation.***

14 ***(4) The nonprofit corporation agrees to assist the residents of***
15 ***the development in setting up a resident council, and the operating***
16 ***budget for the development provides for ongoing financial support***
17 ***to allow the resident council to carry out its activities.***

18 ***(c) Lower income participants in a qualified mutual housing***
19 ***development that is assisted pursuant to this chapter shall not be***
20 ***required to have a vested ownership interest in the property.***

21 **SEC. 9.** Section 30500.1 of the Public Resources Code is
22 amended to read:

23 30500.1. ***(a) No local coastal program shall be required to***
24 ***include housing policies and programs.***

25 ***(b) The commission shall encourage housing opportunities for***
26 ***persons of low and moderate income. In reviewing residential***
27 ***development applications for low- and moderate-income housing,***
28 ***the commission may propose and apply measures that reduce***
29 ***adverse impacts on coastal resources, but not measures that reduce***
30 ***residential densities below the density sought by an applicant if***
31 ***within the permitted density or range of density established by***
32 ***local zoning plus the additional density permitted under Section***
33 ***65915.***

34 ***(c) The commission may propose and apply policies to protect***
35 ***coastal resources, including, but not limited to, requiring***
36 ***consistency with local certified land use plans, encouraging***
37 ***location of development away from sensitive coastal resources and***
38 ***within, contiguous with, or in proximity to existing developed***
39 ***areas where adequate public services exist.***

1 (d) *The commission may not propose and apply measures that*
2 *have the effect of precluding the construction of low- and*
3 *moderate-income housing developments at affordable housing*
4 *cost, as defined in Section 50052.5 of the Health and Safety Code.*

5 (e) *The Legislature finds and declares that higher density of*
6 *residential development does not in and of itself constitute an*
7 *adverse impact on coastal resources and further finds and declares*
8 *that it is, in fact, protective of coastal resources to use land more*
9 *efficiently by locating residential development within, contiguous*
10 *with, or in proximity to, existing developed or newly developing*
11 *areas consistent with state law.*

